

## Internal Revenue Service

## Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-110106-02

Date:

August 22, 2002

In re:

### LEGEND

Taxpayer =

Entity =

Dates 1, 2, 3 =

Individual A =

CPA Firm =

X Office =

Dear :

This replies to your letter dated February 14, 2002, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file the annual certification provided under § 1.1503-2(g)(2)(vi)(B) as follows: (i) with its tax return for the tax year ended on Date 2, the certification of the loss generated in the tax year ended on Date 1, and (ii) with its tax return for the tax year ended on Date 3, the certification of the losses generated in the tax years ended on Dates 1 and 2. The information submitted for consideration is substantially as set forth below.

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The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

During the tax years at issue, Taxpayer prepared its own federal income tax returns but relied upon the X office of CPA Firm to review the tax returns and provide assistance with respect to any elections or certifications that may have been required.

Individual A is a tax partner in CPA Firm. Individual A was the partner responsible for advising Taxpayer with respect to international tax issues, and was the partner that reviewed Taxpayer's tax return for the tax years ended on Dates 1 and 2. The affidavit of Individual A describes the circumstances that led to his failure to advise Taxpayer to file the annual certifications for the losses incurred by Entity for the tax years at issue.

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, the annual certification is a regulatory election as defined in § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file the annual certification provided under § 1.1503-2(g)(2)(vi)(B) as follows: (i) with its tax return for the tax year ended on Date 2, the certification of the loss generated in the tax year ended on Date 1, and (ii) with its tax return for the tax year ended on Date 3, the certification of the losses generated

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in the tax years ended on Dates 1 and 2.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the annual certifications. § 301.9100-1(a). A copy of this ruling letter should be associated with the annual certifications.

This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of this letter is being furnished to the Taxpayer.

Sincerely,

/s/ Allen Goldstein \_\_\_\_\_  
Allen Goldstein  
Reviewer  
Office of the Associate Chief Counsel (International)